

**222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 1263 of 2015
Date of decision : 11.05.2023**

Ranjit Singh

...Petitioner

Vs.

**Presiding Office,
Industrial Tribunal, Patiala and others**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vikas Singh, Advocate and
Mr. A.S. Pannu, Advocate for
the petitioner.
Ms. Ravisha Mahajan, Advocate for
Mr. Mukul Aggarwal, Advocate
for respondents No. 2 to 4.

MANOJ BAJAJ, J.

Petitioner has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of Certiorari for quashing the award dated 07.10.2013 (Annexure P-4) passed by respondent No.1, whereby industrial dispute raised under Section 10 (1) (c) Industrial Disputes Act, 1947 seeking reinstatement has been dismissed and alternatively compensation of Rs.3,000/- has been granted to the workman.

The brief facts leading to the petition are that petitioner joined the respondent-department on 01.09.1979 as Beldar/T-Mate, who was drawing the salary of Rs.695.60/- per month and he worked till 15.07.1985, when his services were terminated. Aggrieved against his removal from service, the petitioner-workman raised industrial dispute on the ground that after his termination, new appointments were made and juniors to him were also retained in service and claimed that the termination of his service was in violation of the Industrial Disputes Act, 1947. It was prayed that the

termination order be set aside and he be reinstated with continuity of service and full back wages.

The management contested the claim by filing written statement and refuted the stand of the petitioner by pleading that the claim of the workman is not maintainable after a long delay of 20 years. On merits, it was pleaded that retrenchment of the workman along with other 5500 workers was made after complying with the procedure under Section 25-F Industrial Disputes Act, 1947 and with prior approval of the State Government, they all were compensated at the time of retrenchment. Further, while denying the other averments in the claim statement, it was prayed that the claim be dismissed.

The replication was filed by the workman to controvert the stand of the management, who reiterated his stand contained in the claim statement.

Thereafter, the Labour Court, Patiala framed three issues and after examining the pleadings, evidence on record, it denied reinstatement to the workman, but awarded a sum of Rs.3,000/- as compensation. Hence this writ petition.

Learned counsel for the petitioner submits that once the Court has given a categorical finding that the termination of petitioner's services was in violation of mandatory provisions of Section 25 Industrial Disputes Act, 1947, the Labour court ought to have awarded him relief of reinstatement in service with consequently benefits, but it has alternatively awarded him compensation of Rs.3,000/-, which also is extremely on lower side. Learned counsel has argued that the Labour Court, Patiala has not appreciated the evidence on record, therefore, interference is warranted by this Court.

The prayer is opposed by learned counsel for the respondent-management, who has argued that as per the claim statement itself, workman worked only for a small period w.e.f.01.09.1979 to 15.07.1985 as Beldar, but against the alleged termination, he raised the industrial dispute in the year 2006 i.e. after period of 20 years. He submits that the impugned award is based upon proper appreciation of evidence and does not call for interference.

After hearing learned counsel for the parties, considering the averments and material on record, this Court finds that the petitioner had worked only for a short period as Beldar w.e.f. 01.09.1979 to 15.07.1985 and the cause of action had accrued to him when his services were dispensed with in the year 1985. Admittedly, the demand notice was served by the workman after a period of 20 years in 2006 and examining this background, the Labour Court returned the categorical finding that the claim raised by the workman is highly belated. The relevant observation of the Labour Court read as under:-

“There is also nothing on record that retrenchment compensation was ever paid to the workman. MWI Paramjit Singh during his examination stated that he has no proof that any compensation was paid to the workman. So, the only conclusion that can be drawn is that at the time Industrial retrenchment of the workman, no compensation was paid to the workman.

However, workman took 20 years in raising the industrial dispute. He was terminated on 15-07-1985 as per discharge Certificate Ex M3 and he raised the industrial dispute by way of filing Demand Notice Ex W3 on 18-10- 2005. There is nothing on record that he approached the management for his re-employment. Therefore, delay of more than 20 years is a major factor to decline him the relief of reinstatement.

In view of the above discussion, it is held that termination of services of the workman is in violation of the provisions of Section 25-F of the I.D.A., 1947. However, as observed earlier, the workman took 20 years to raise the dispute regarding his illegal termination, which is a considerable delay and the workman is not entitled to relief of reinstatement. It is a fit case of awarding compensation to the workman.”

No doubt, the labour Court returned a finding that the services of the workman were terminated wrongly, but that alone would not be sufficient ground to order reinstatement of the workman in service, as alternatively the workman has been suitably compensated by considering the other attending circumstances. Thus, having given thoughtful consideration to the facts and circumstances of this case, particularly the delay in raising the industrial dispute, this Court finds that the labour Court, Patiala has analyzed the material on record carefully while refusing reinstatement of workman.

Resultantly, no ground is made out for exercise of extraordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

(MANOJ BAJAJ)
JUDGE

11.05.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No